



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

FEB 22 2019

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Elise N. Paeffgen
Alston & Bird
The Atlantic Building
950 F Street, N.W.
Washington, D.C. 20004-1404

Re: Freedom of Information Act Request No. EPA-HQ-2019-001686, Final Response

Dear Ms. Paeffgen:

This letter responds to the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or "the Agency") on November 28, 2018, in which you requested:

Any and all documents, correspondence, notes, and memoranda, in U.S. EPA's possession, relating to EPA's use of a "wrongful profits," "illegal competitive advantage," or "beyond BEN benefit (BBB)" civil penalty calculation in a Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) civil judicial case in the last 5 years.

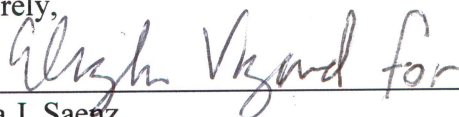
On December 21, 2018, you spoke with Christina Cobb of my staff to clarify the scope of the request. On the call, both parties agreed to a ten (10) working day extension of time for EPA to respond to the FOIA request. The new deadline for EPA's response was January 11, 2019. Due to the federal government shutdown, on January 31, 2019, the EPA requested an additional 15 working day extension to respond to the FOIA request and the new deadline was February 22, 2019. You agreed to the extension on February 4, 2019.

As explained during the December 21, 2018, phone call, the EPA's FIFRA enforcement program includes civil administrative proceedings and criminal judicial proceedings. Civil judicial cases are referred to the U.S. Department of Justice (DOJ) for enforcement, and DOJ would be the primary custodian of records related to FIFRA civil judicial cases. Nonetheless, the Office of Civil Enforcement (OCE) completed a search and did not identify any records responsive to your request.

This letter concludes our response to your request. You may appeal this response by email at hq.foia@epa.gov, or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals *received* after the 90-calendar-day limit. Appeals received after 5:00 pm Eastern Time will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, National Archives and Records Administration, Office of Government Information Services, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

If you have any questions concerning this response, please contact Christina Cobb of my staff at cobb.christina@epa.gov or (202) 564-1798.

Sincerely,



Diana J. Saenz,

Acting Director

Waste and Chemical Enforcement Division

Office of Civil Enforcement